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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,366	10/25/2000	Randal N. Linden	1005/203	3221

530 7590 05/23/2003
LERNER, DAVID, LITTENBERG,
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600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER

PHAN, THAI Q

ART UNIT	PAPER NUMBER
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2123

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/696,366

Applicant(s)
Randal Linden

Examiner
Thai Phan

Art Unit
2123



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 25, 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

DETAILED ACTION

This Office Action is response to patent application S/N: 09/696,366, filed on 10/25/2000. Claims 1-4 are pending in this Office Action.

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim recites a variance in execution speed between the target system and the host system is unclear for what it refers to. Does variance herein refer to performance difference between host and target system, emulation of the speed of target system by using host system in execution of a target program, or others. Clarification is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasciak, Andrew, US patent no. 5,103,394.

As per claim 1, Blasciak discloses method and system for emulating execution of program instruction codes designed for a target system in a host with feature limitations substantially similar to the claimed invention (Abstract and Summary of the Invention).

According to Blasciak, the emulation method includes steps of

measuring execution speed of the target system and host system in execution of target program (col. 4, lines 3-57, col. 5, lines 20-35, Figs. 12, 13, col. 10, lines 10-66, col. 17, lines 1-18)

measuring execution speed difference between the host processor and the target processor (Fig. 12, col. 10, lines 25-40, col. 11, line 52 to col. 12, line 54, cols. 13-18),

and configuring or reconfiguring the host system in order to conform to the execution speed of the target system in execution of the target program (cols. 12-18). Blasciak does not expressly disclose dynamically adjusting the execution speed of the host system to conform to target system as claimed.

Practitioner in the art at the time of the invention was made would have found Blasciak configuration or reconfiguring the host system performance parameters as in col. 10, lines 25-40, col. 11, line 52 to col. 12, line 54, cols. 13, 14, for example, could obviously imply dynamically adjusting speed of the host system because the change in host configuration parameters dynamically adjusts speed of the host as claimed to conform with the target system in execution of the target or measurement program.

As per claim 2, Blasciak discloses identifying a block of instructions and associated processing time required by the target system (col. 5, lines 20-35, line 55 to col. 6, line 31, for example), determining real time required to execute by the target system (col. 6, lines 34-44, for example), and the time difference make to conform with the target system as claimed.

As per claim 3, Blasciak discloses measurement of speed of execution for program instruction blocks as claimed. Blasciak does not disclose adjust speed of execution based on variance determined for a preceding block as claimed.

It is obvious for practitioner in the art at the time of the invention was made to have found Blasciak configuration or reconfiguring the host system performance parameters as in col. 10, lines 25-40, col. 11, line 52 to col. 12, line 54, cols. 13, 14, for example, could obviously imply dynamically adjusting speed of the host system because the change in host configuration parameters dynamically adjusts speed of the host as claimed to conform with the target system in execution of the target or measurement program for a plurality of program instruction blocks, including a preceding block of instructions.

Allowable Subject Matter

6. Claim 4 is allowed. The following is a statement of reasons for the indication of allowable subject matter:

Claim 4 requires the distinct features of by selecting a reference determined by an arbitrary time quantum of the execution speed, tracking the instruction cycles executed, determining an elapsed time period by querying a timing source, and determining a timing reference by comparing the elapsed time with the time quantum. The prior art of record does not show such distinct features as claimed to simulate the operating speed of the target system.

Claim 4 is deemed allowable.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. US patent no. 5,666,519, issued to Hayden, Peter, on Sept. 1997
2. US patent no. 5,737,579, issued to Kimura et al., on Apr. 1998
3. US patent no. 5,815,688, issued to Averill, Gregory, on Sept. 1998
4. US patent no. 5,761,477, issued to Wahbe et al., on June 1999

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai Phan whose telephone number is (703) 305-3812.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 746-7239, (for formal communications intended for entry)

Or:

(703) 746-7240 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

May 19, 2003

Thaiphon
Patent Examiner
AU 2123